

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAIME RUIZ-MONTES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NOS. 2:13-CR-21(2) / 2:18-CV-904  
CHIEF JUDGE ALGENON L. MARBLEY  
Magistrate Judge Kimberly A. Jolson

**ORDER**

On July 12, 2019, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that Movant’s ineffective assistance of counsel claims, asserted in a motion to vacate under 28 U.S.C. § 2255, be denied as time-barred. (ECF No. 170.) The R&R further recommended that any claims in this federal habeas action that seek relief under the First Step Act of 2018, Pub.L.No. 115–391, 132 Stat. 5194 (“FSA”), be denied without prejudice. (*Id.*) Although Movant sought and received an extension of time until August 24, 2019, to object to the R&R (ECF Nos. 171, 172), and although all parties were advised of the right to file objections, and of the consequences of failing to do so (ECF No. 170), no objections have been filed. Therefore, the R&R (ECF No. 170) is **ADOPTED** and **AFFIRMED**. Respondent’s motion to dismiss is **GRANTED**. (ECF No. 167.) The motion to vacate is **DENIED**; the ineffective assistance of counsel claims it contains are **DISMISSED**; and this federal habeas action is **DISMISSED**. (ECF No. 165.) Any FSA claims asserted in this federal habeas action are **DISMISSED** without prejudice.

Pursuant to 28 U.S.C. § 2253(c)(1)(B) and Rule 11 of the Rules Governing Section 2255 Proceedings in the United States District Courts, the Court must determine whether to issue a certificate of appealability. Because Petitioner has waived the right to file an appeal by failing to file objections to the R&R, *see Thomas v. Arn*, 474 U.S. 140, 147 (1985); *United States v. Walters*, 638 F. 2d 947, 950 (6th Cir. 1981), the Court **DECLINES** to issue a certificate of appealability.

**IT IS SO ORDERED.**

**Date: October 7, 2019**

**s/ Algenon L. Marbley**  
**ALEGENON L. MARBLEY**  
**CHIEF UNITED STATES DISTRICT COURT JUDGE**